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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,992	07/05/2006	Gerhard Duernberger	TURKP0133US	4254

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RENNER OTTO BOISSELLE & SKLAR, LLP  
1621 EUCLID AVENUE  
NINETEENTH FLOOR  
CLEVELAND, OH 44115

EXAMINER
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FIGUEROA, ADRIANA

ART UNIT	PAPER NUMBER
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3633

MAIL DATE	DELIVERY MODE
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05/26/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/596,992

**Applicant(s)**

DUERNBERGER, GERHARD

**Examiner**

ADRIANA FIGUEROA

**Art Unit**

3633

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of claim 5 showing the locking means being step-shaped or stair-shaped must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 5 in line 2 recites the limitation "wherein the locking means is step shaped or stair shaped". There is no support in the specification for this limitation. Examiner wants to note that the disclosure indicating "step shaped or stair shaped" is in relation to the connecting means not the locking means.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanning (US 6,505,452).**

**Regarding claim 1**, Hanning discloses connecting means 42, 43 made in such a way that one said connecting means can be connected with the other connecting means in a positive fit in two directions that are perpendicular relative to each other, (Fig

8) and wherein said one and other connecting means are formed by respective panel edges 44, 45 that have the same geometry, and each panel edge has a uniform cross-sectional portion bounded by top (O) and bottom (V) surfaces of the panels and a profiled cross-sectional portion 47, 48 extending from the uniform cross-sectional portion, each profiled portion having the same geometry but inverted with respect to one another, (Fig 8), (Col 9, Lines 65-67, Col 10, Lines 1-4).

**Regarding claim 3**, Hanning discloses wherein the profiled cross-sectional portions 47, 48 are configured so that they can be connected by lowering the one connecting means 42 relative to the other connecting means 43 and then pushing the connecting means towards each other in a direction perpendicular relative to the lowering motion, (Fig 8), (Col 10, Lines 43-48).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**4. Claims 4-7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanning (US 6,505,452) in view of Pervan (US 2003/0024199).**

**Regarding claims 4 and 17**, Hanning discloses connecting means according to claim 1, but does not disclose separate locking means inserted between the panel edges after the panel edges have been connected together for locking the panel edges

in such connected state wherein the separate locking means is a securing pin. However, Pervan teaches connecting means having a separate locking means 52 inserted between the panel edges, wherein the separate locking means is a securing pin (Fig 14c), (par 179). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the connection means of Hanning to include a separate locking means as taught by Pervan in order to counteract changes in the properties of the floor panels caused by moisture (Abstract).

The limitation "after the panel edges have been connected together" is regarded to as functional language and while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. See MPEP § 2114.

**Regarding claim 5, as best understood**, Hanning modified by Pervan discloses as disclosed in claim 4, but does not disclose the locking means is step-shaped or stair-shaped. However, it would have been an obvious matter of design choice to modify the locking means of Hanning and Pervan to have a step-shaped or stair-shaped, since such a modification would have involved a mere change in the shape of the component and would provide a locking means that would adjust to a step shaped space between the connecting means. A change in shape is generally recognized as being within the level of ordinary skill in the art.

**Regarding claim 6**, Hanning modified by Pervan discloses as disclosed in claim 1, Pervan further discloses connecting means having a separate locking means 52 that

consists of a compressible material such as plastics, which can be pushed into a channel formed between the panel edge, (Fig 14c), (Par 71, 76).

Hanning discloses at least one external dimension of the panel edges 44, 45 is greater than the corresponding internal dimension of a channel 53, (Fig 8). The modified connecting means would have the separate locking means being held in the channel by press fit and the separate locking means.

**Regarding claim 7**, Hanning modified by Pervan discloses as disclosed in claim 1, Pervan further discloses connecting means which are formed in particular as laminate flooring panels comprising a base board and a decorative layer. (Paragraph 67). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the connection means of Hanning to be formed as laminate flooring including a base and a decorative layer as taught by Pervan in order to provide a moisture proof material and a decorative appearance.

**5. Claims 8, 10, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanning (US 6,505,452) in view of Eisermann (US 7,065,935).**

**Regarding claims 8 and 16**, Hanning discloses panels of rectangular shape having lateral connecting elements 42, 43 provided along lateral edges of the panels, which lateral connecting elements are configured to be connected with each other with a positive fit in two directions that are perpendicular relative to each other, (Fig 8) and longitudinal connecting elements provided along longitudinal edges of the panels (Fig 1); wherein said lateral connecting elements are formed by respective panel edges 44,

45 that have the same geometry, and each panel edge has a uniform cross-sectional portion bounded by top (O) and bottom (V) surfaces of the panels and a profiled cross-sectional portion 47, 48 extending from the uniform cross-sectional portion, each profiled portion having the same geometry but inverted with respect to one another, (Fig 8), (Col 9, Lines 65-67, Col 10, Lines 1-4).

Hanning does not disclose the longitudinal connecting elements are configured to be connected with each other by a turning motion. However, Eisermann teaches panels having longitudinal connecting elements are configured to be connected with each other by a turning motion (Fig 3, 4, 8). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the panels of Hanning to include connecting elements in the longitudinal direction as taught by Eisermann in order to simplify the method for laying and interlocking panels and to improve the durability of the fastening system.

**Regarding claim 10**, Hanning discloses wherein the lateral connecting elements 42, 43 are configured so that they can be connected by lowering the one connecting element 42 relative to the other connecting element 43 and then pushing the connecting element towards each other in a direction perpendicular relative to the lowering motion, (Fig 8), (Col 10, Lines 43-48).

**Regarding claim 13**, Hanning discloses wherein the lateral connecting elements 42, 43 are step-shaped (Fig 8).



**6. Claims 11, 12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanning (US 6,505,452) in view of Eisermann (US 7,065,935) and further in view of Pervan (US 2003/0024199).**

**Regarding claim 11**, Hanning modified by Eisermann discloses as discussed in claim 8, but does not disclose a locking device insertable into a space between the lateral connecting elements when coupled together to lock the lateral connecting elements against separation. However, Pervan discloses a locking device 52 insertable into a space between the lateral connecting elements when coupled together to lock the lateral connecting elements against separation, (Fig 14c), (Par 71, 76). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the connecting elements of Hanning to include a locking device as taught by Pervan in order to counteract changes in the properties of the floor panels caused by moisture (Abstract). The modified panels would have the lateral connecting elements locked against separation when coupled together.

**Regarding claim 12**, Hanning modified by Eisermann discloses as discussed in claim 12, Pervan further discloses the locking device has a substantially rectangular cross-section (Fig 14c), (Par 179).

**Regarding claim 14**, Hanning modified by Eisermann discloses as discussed in claim 8, but does not disclose a separate locking device that can be pushed into a channel formed by the lateral connecting elements when coupled together, wherein at least one external dimension of the lateral connecting elements is greater than the corresponding internal dimension of the channel, so that the separate locking device

can be held in the channel by press fit and the separate locking device and/or the lateral locking elements is/are made of a compressible material. However, Pervan discloses connecting means having a separate locking device 52 which can be pushed into a channel formed by the lateral connecting elements 8, 12, is greater than the corresponding internal dimension of the channel, so that the separate locking device can be held in the channel by press fit and the separate locking device consist of a compressible material (Fig 14c), (Par 71, 76). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the connecting elements of Hanning to include a locking device as taught by Pervan in order to counteract changes in the properties of the floor panels caused by moisture (Abstract).

**Regarding claim 15**, Hanning modified by Eisermann discloses as disclosed in claim 8, but does not disclose the panels are formed as laminate flooring panels including a base board and a decorative layer. However, Pervan discloses panels which are formed in particular as laminate flooring panels comprising a base board and a decorative layer.(Paragraph 67). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the panels of Hanning to be formed as laminate flooring including a base and a decorative layer as taught by Pervan in order to provide a moisture proof material and a decorative appearance.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 3-8, 10-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADRIANA FIGUEROA whose telephone number is (571)272-8281. The examiner can normally be reached on M-Th 7:30 AM - 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571)272-6754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN GLESSNER/  
Supervisory Patent Examiner, Art Unit 3633

/ADRIANA FIGUEROA/  
Examiner, Art Unit 3633  
5/20/2011